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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 United States of America,
10 Plaintiff,
11 v.
12 Luis Garcia Guzman,
13 Defendant.
14

No. CR-15-1096-PHX-DJH

**FINDINGS AND RECOMMENDATION
OF THE MAGISTRATE JUDGE UPON
A PLEA OF GUILTY AND ORDER**

15 TO THE HONORABLE DIANE J. HUMETEWA, UNITED STATES DISTRICT
16 JUDGE:

17 Upon Defendant's request to enter a plea of guilty pursuant to Rule 11 of the
18 Federal Rules of Criminal Procedure, this matter came on for hearing before United
19 States Magistrate Judge Bridget S. Bade on September 8, 2015, with the written consents
20 of Defendant, counsel for Defendant, and counsel for the United States of America.

21 The Magistrate Judge accepted Defendant's waiver of indictment after inquiring
22 about Defendant's understanding of the right to prosecution by indictment. Defendant's
23 written waiver constitutes a part of the plea agreement that was lodged with the Court.

24 The hearing on Defendant's plea of guilty was in full compliance with Rule 11,
25 Federal Rules of Criminal Procedure, before the Magistrate Judge in open court and on
26 the record. In consideration of that hearing and the statements made by Defendant under
27 oath, on the record, and in the presence of counsel, and the remarks of the Assistant
28 United States Attorney and of counsel for Defendant,

1 **I FIND** as follows:

2 (1) that Defendant understands the nature of the charge against him to which the
3 plea is offered and the elements of the offense to which he is pleading guilty;

4 (2) that Defendant understands the rights to trial by jury, to plead not guilty, or
5 having already so pleaded, to persist in that plea, to the assistance of counsel at trial and
6 at every other stage of the proceedings, to confront and cross-examine adverse witnesses,
7 to present evidence, to compel the attendance of witnesses, and the right against
8 compelled self-incrimination;

9 (3) that Defendant understands the maximum possible penalty for the offense to
10 which he is pleading guilty, including imprisonment, fine and supervised release, any
11 mandatory minimum penalty, any applicable forfeiture, the effect of the supervised
12 release term, and the Court's authority to order restitution and its obligation to impose a
13 special assessment;

14 (4) that Defendant understands the Court's obligation to calculate the applicable
15 sentencing guideline range and to consider that range, possible departures under the
16 Sentencing Guidelines, and other sentencing factors under 18 U.S.C. § 3553(a); and that
17 Defendant understands that the sentencing guidelines are advisory, not mandatory, and
18 that the Court may sentence outside those guidelines;

19 (5) that Defendant knowingly and voluntarily pleaded guilty and that his plea is
20 not the result of force or threats or of promises apart from the plea agreement between the
21 parties;

22 (6) that Defendant is competent to plead guilty;

23 (7) that Defendant understands that his statements under oath may later be used
24 against him in a prosecution for perjury or false statement;

25 (8) that Defendant understands that by pleading guilty he waives the right to a
26 jury trial;

27 (9) that Defendant understands the terms of any plea agreement provision waiving
28 the right to appeal or to collaterally attack the sentence, and has knowingly, intelligently

1 and voluntarily waived those rights;

2 (10) that Defendant is satisfied with counsel's representation; and

3 (11) that there is a factual basis for Defendant's plea.

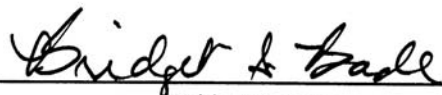
4 **I RECOMMEND** that the Court accept the Defendant's plea of guilty.

5 **IT IS ORDERED** that any objection to the guilty plea proceedings and any
6 request for supplementation of those proceedings be made by the parties in writing and
7 shall be specific as to the objection or request made. All objections or requests for
8 supplementation shall be filed within fourteen (14) days of the date of service of a copy
9 of these findings unless extended by an Order of the assigned district judge.

10 **IT IS FURTHER ORDERED** that any letters, documents, or other matters
11 Defendant would like the District Court Judge to consider before disposition (including
12 the English translation of any writings not in English) must be submitted by defense
13 counsel to the U.S. Probation Office at least five (5) business days prior to the sentencing
14 date or they may be deemed untimely by the District Court Judge and not considered.
15 The U.S. Probation Office will provide copies to the District Court Judge and opposing
16 counsel as an attachment to the final Presentence Report. Defense counsel shall submit
17 no more than ten (10) character letters, unless otherwise ordered by the Court. Character
18 letters shall not be mailed directly to the District Court Judge by any family members or
19 other persons writing in support of the Defendant. Character letters or a notice of such
20 letters shall not be filed electronically unless otherwise ordered by the Court.

21 **IT IS FURTHER ORDERED** that any motions for upward or downward
22 departures or any sentencing memoranda must be filed at least six (6) business days prior
23 to the sentencing date. Responses are due three (3) business days prior to the sentencing
24 date. Any motion to continue sentencing must be filed promptly upon discovery of the
25 cause for continuance and must state the cause with specificity. Motions to continue
26 sentencing filed less than fourteen (14) days before sentencing are disfavored.

27 Dated this 8th day of September, 2015.

28 
Bridget S. Bade
United States Magistrate Judge